

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1-4-08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FRATELLI COSULICH BUNKERS (HK) LTD.,

Plaintiff,

- against -

FAIR WIND SHIPPING CO. LTD.,

Defendant.
-----X

07 CV 0995 (VM)

ECF CASE

**STIPULATION AND ORDER DIRECTING RELEASE
OF ATTACHED PROPERTY AND DISMISSING ACTION**

IT IS HEREBY STIPULATED AND AGREED, between Plaintiff FRATELLI
COSULICH BUNKERS (HK) LTD. (hereinafter referred to as "Plaintiff") and Defendant FAIR
WIND SHIPPING CO. LTD., (hereinafter referred to as "Defendant") that:

WHEREAS, on or about February 13, 2007 this action was commenced by Plaintiff
against Defendant in respect of a claim for nonpayment of marine bunker fuel/lubes delivered to
several vessels; and

WHEREAS, on or about February 13, 2007 the Court issued an ex parte order of
maritime attachment that authorized the restraint of Defendant's funds within the District, and

WHEREAS, on or about February 26, 2007 garnishee bank Citibank attached two
electronic funds transfer payments, i.e., one in the amount of \$196,265.93 originating from
Fairwind Shipping Company Limited and one in the amount of \$140,000.00 intended for
Fairwind Shipping Company Limited (hereinafter referred to as "the Attached Funds"); and

WHEREAS, that Plaintiff and Defendant have entered into an Agreement on November
30, 2007 (hereinafter referred to as "the Agreement"), which is annexed as Exhibit One, whereby
Defendant has admitted that it owes to Plaintiff \$1,568,671.04, and

WHEREAS, the Agreement provides that the Attached Funds shall be paid to Plaintiff pursuant to instructions to be provided to Citibank by Plaintiff's attorneys Lennon, Murphy & Lennon, LLC, and

WHEREAS, the Agreement provides that this action shall be discontinued,


IT IS HEREBY STIPULATED AND AGREED between Plaintiff and Defendant, through their respective undersigned counsel, as follows:

1. In accordance with the Agreement the Attached Funds at Citibank shall be released to Plaintiff pursuant to instructions to be provided by Plaintiff's attorneys Lennon, Murphy & Lennon, LLC;

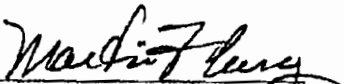
2. This case shall thereafter be discontinued without prejudice and without costs to either party.

Dated: December 19, 2007

LENNON, MURPHY & LENNON, LLC
Attorneys for Plaintiff
FRATELLI COSULICH BUNKERS (HK) LTD.

By: 
Charles E. Murphy
The Gray Bar Building
420 Lexington Ave., Suite 300
New York, New York 10170
(212) 490-6050
ccm@lenmur.com

CASEY & BARNETT
Attorneys for Defendant
FAIRWIND SHIPPING CO. LTD.,

By: 
Martin F. Casey
317 Madison Avenue, Floor 21
New York, NY 10017
(212) 286-0225
mfc@caseybarnett.com

SO ORDERED: *January 2008*

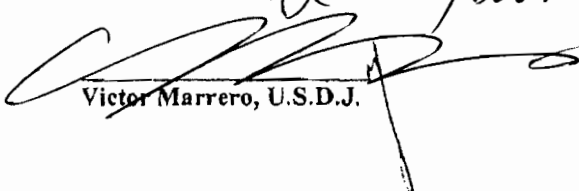

Victor Marrero, U.S.D.J.

EXHIBIT 1

239966

Agreement made this 30th November, 2007

Between

(1) Fratelli Cosulich Bunkers (HK) Limited of Room 2905, 248 Queen's Road East, Hong Kong, China ("Cosulich")

and

(2) Fairwind Shipping Company Limited / Fair Wind Shipping Co Ltd incorporated in Hong Kong under company number 531155 and whose registered office is situated at 15/F, Seaview Commercial Building, 21-24 Connaught Road West, Hong Kong, China ("Fairwind Shipping").

Whereas:-

- (A) Fairwind Shipping purchased bunkers from Cosulich and failed to pay for the bunkers.
- (B) Fairwind Shipping admits that it owes Cosulich US\$1,568,671.04 ("the debt") as at 30th November 2007.
- (C) Pursuant to a Rule B attachment in court proceedings in the United States District Court Southern District of New York under docket no. 07 CV 995 the following amounts belonging to Fairwind Shipping were restrained at Citibank on or about 26 February 2007 and remain restrained:-

(1) US\$196,265.93

originating from Fairwind Shipping Company Limited;


And


(2) US\$140,000.00

for beneficiary Fairwind Shipping Company Limited;
together hereinafter referred to as "the restrained
money".

In consideration of the rights and obligations created herein,
the parties hereby agree as follows:-

1. Fairwind Shipping hereby absolutely and irrevocably
assigns all right title and interest in the restrained
money to Cosulich.
2. Fairwind Shipping agrees that Citibank must remit the
restrained money to, or to the order of, Cosulich as
directed by Cosulich's Attorneys, Lennon Murphy Lennon,
by way of part payment of the debt.
3. The Rule B attachment will be discharged and the court
proceedings under docket no. 07 CV 995 will be
discontinued in order to enable the restrained money to
be paid to or to the order of Cosulich as provided above.


Signed by Ms Song Yong, Director
China Passport G05191695
For and on behalf of
Fairwind Shipping Company Limited / Fair Wind Shipping Co Ltd

For and on behalf of
FRATELLI COSULICH BUNKERS (HK) LIMITED


Signed by Ciric Cheung, Managing Director,
Hong Kong Identity Card No. E970781(A)
For and on behalf of
Fratelli Cosulich Bunkers (HK) Limited